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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Forty-eighth session

SUMMARY RECORD OF THE 35th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 29 August 1996, at 3 p.m.

Chairman: Mr. EIDE

CONTENTS

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS (continued)

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GE.96-13974 (E)

The meeting was called to order at 3.20 p.m.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS (continued)

Draft declaration

1. The CHAIRMAN announced that the following draft declaration had been submitted to the Sub-Commission for adoption:

> "The Sub-Commission on Prevention of Discrimination and Protection of Minorities, considering the declaration of the Chairman of the Sub-Commission at its forty-seventh session relating to the kidnapping and murder of hostages, reiterates its strongest condemnation of these practices, and emphasizes that hostage-taking of any sort constitutes not only a heinous crime but also, in situations of armed conflict, a violation of the applicable humanitarian standards.
>
> "The Sub-Commission again urges all organizations that use such barbaric methods for political gain to cease immediately this vile practice and unconditionally set free all the persons they are holding."

2. The draft declaration was adopted without a vote.

Review of further developments in fields with which the Sub-Commission has been concerned (agenda item 4) (continued)

Draft decision E/CN.4/Sub.2/1996/L.36

3. Draft decision E/CN.4/Sub.2/1996/L.36 was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1996/L.38

4. Draft resolution E/CN.4/Sub.2/1996/L.38 was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1996/L.40

5. The CHAIRMAN announced that Mr. Boutkevitch, Mrs. Gwanmesia, Mr. Ibarra, Mr. Lindgren Alves, Mr. Maxim, Mr. Mehedi and Mrs. Palley had joined the sponsors of the draft resolution.

6. Mrs. WARZAZI said that she could not agree to operative paragraph 3 of the draft resolution as it stood. It had been included without consulting all members of the Sub-Commission, as required under guideline No. 4 of the Sub-Commission's methods of work (resolution 1992/8 of the Sub-Commission). Such consultation was all the more necessary when the person nominated as rapporteur was not a member of the Sub-Commission, since paragraph 2 of the same guideline specified that "The duties of rapporteur are in principle exercised by members of the Sub-Commission". Moreover, operative paragraph 3 was misleading and inaccurate in that it claimed to be in accordance with resolution 1995/43 of the Commission on Human Rights, whereas in that resolution the Commission had welcomed the decision of the Sub-Commission to entrust Mr. Ramadhane with the task of preparing a working paper.

7. To adopt the resolution in its current form would be to set a precedent; she therefore proposed that paragraph 3 should be amended to say that the

Sub-Commission decided to consider the question at its forty-ninth session. If the sponsors insisted on keeping the paragraph, she would press for a vote.

8. Mr. CHERNICHENKO considered that Mrs. Warzazi's amendment would lead to an unjustifiable delay in the presentation of an expert report to the Sub-Commission. Terrorism was a dangerous phenomenon which, like kidnapping and hostage-taking - the subjects of the draft declaration just adopted, needed urgent action.

9. Mrs. DAES, speaking as the main sponsor of the draft resolution, said it had been drawn up after close consultations with colleagues in response to terrorist outrages all over the world, particularly the killing of innocent Greek tourists in Cairo around Christmas 1995.

10. Mrs. Koufa, the person nominated to prepare the working paper, was a most distinguished professor of international law. She (Mrs. Daes) was very grateful to the professor for accepting Mr. Khalifa's proposal to produce a working paper without financial implications. In her view, alternates were entitled, according to the relevant resolutions of the Commission, to prepare working papers. She therefore opposed Mrs. Warzazi's amendment to operative paragraph 3, and proposed that the amendment should be put to the vote, to be followed by a vote on the draft resolution itself.

11. Mr. JOINET said there were precedents for requesting alternates to write reports, but only in the absence of the member, which was not the current case. However, he did not wish to labour the point. In order to save time, he suggested that Mrs. Koufa should attempt the difficult task of defining "terrorism". It was all very well to talk of the destruction of fundamental freedoms and democracy, but when the question of territorial integrity was raised, matters became more complicated, as shown recently in the debate on Chechnya, in which Mr. Chernichenko had called the Chechen fighters terrorists.

12. Mr. EL-HAJJÉ, speaking on a point of order, said the question was whether the reference to resolution 1995/43 should be retained in operative paragraph 3; it was not the Sub-Commission's task to define the parameters of the working paper.

13. Mrs. WARZAZI observed that the abuse of points of order to interrupt statements and criticize the points made by the speaker was becoming a serious problem.

14. Mr. JOINET said he had every right to make suggestions, but he would discuss them with Mrs. Koufa personally.

15. He went on to propose an amendment to operative paragraph 3: the words "in conformity with guideline No. 2 in resolution 1992/8 on the methods of work of the Sub-Commission" should be inserted after "the task of preparing". The first paragraph of the guideline applied to the proposed working paper, and the second paragraph seemed to meet the points raised in the discussion: "The preparation of a preparatory document shall in no way prejudge the decision finally taken concerning the execution of the study or the person finally designated to carry it out".

16. Mrs. WARZAZI emphasized that she had only proposed an amendment to operative paragraph 3, and had not asked for the whole resolution to be dropped, even though there was no mention in it of terrorism in all its forms, including State terrorism, which she would have liked to see included. She had no objection to Mr. Joinet's amendment. Resolution 1995/43 had been adopted following the nomination of Mr. Ramadhane; therefore it was not acceptable to cite it as if it referred to the candidate nominated by Mrs. Daes.

17. Mr. MEHEDI proposed two amendments to the seventh preambular paragraph. He felt that "massacred" was not a strong enough word to describe the atrocities carried out by some terrorists. It should be replaced by "butchered", which more accurately described the way in which, in some countries, intellectuals had been slaughtered - some of them beheaded with mechanical saws - by illiterate terrorists. He also thought that to use the phrase "under any circumstances" laid the argument open to misinterpretation; he would prefer "for any reason whatsoever".

18. In operative paragraph 1, there was a need to emphasize that terrorism was an international problem requiring international cooperation. He accordingly proposed that the phrase "threatening the territorial integrity and security of States" should be replaced by "threatening territorial integrity and international peace and security".

19. He had no objection to the nomination of Mrs. Koufa and would offer her any help he could. He himself had been approached initially to write a working paper on terrorism, but had felt that, as he came from a country which had suffered severely from terrorist acts, his impartiality might be called into question. He wished to emphasize the need for international action, as called for in operative paragraph 2, since no country could ever consider itself safe from the anonymous threat of terror.

20. Mr. GUISSÉ said that members were talking about a preparatory working paper only. Useful and interesting as they were, the comments being made tended to prejudge Mrs. Koufa's work and would be more appropriate when the working paper had been completed.

21. The CHAIRMAN said the comments were simply intended as suggestions to be borne in mind by the author of the working paper.

22. Mr. EL-HAJJÉ said he believed the sponsors could accept Mr. Mehedi's amendment to replace "under any conditions" with "for any reason whatsoever", but he could not agree to the replacement of "massacred" by "butchered", a word not used in United Nations texts.

23. Mr. MEHEDI replied that the word was certainly used in international humanitarian law, including the Fourth Geneva Convention.

24. Mr. LINDGREN ALVES said that Mr. Mehedi's proposed amendments did not really change the substance of the resolution, but they were interesting and perhaps Mr. Mehedi could draft a new paragraph clarifying them for possible inclusion in the resolution.

25. At the suggestion of the CHAIRMAN, Mr. MEHEDI agreed to simply pass on his amendments to the author of the report.

26. Mr. JOINET said that in the past, whenever a member had been asked to produce a working paper, the matter had been dealt with by means of a decision, not a resolution. It might save time to withdraw the draft resolution and present it again as a draft decision, in which case it could be adopted without discussion of its content. However, he would not press that suggestion if it would lead to further complications.

27. Mrs. WARZAZI said that the resolution should retain the ideas expressed in the unequivocal condemnation of terrorism in paragraph 1 of resolution 1995/43, which was very thorough in condemning terrorism in all its forms and wherever it took place.

28. The same resolution made no reference to Mrs. Koufa, and could not be cited in operative paragraph 3 for that reason. Nevertheless, if Mr. Joinet's amendment was accepted, she would be prepared to consider adopting the resolution as it stood.

29. Mrs. DAES said that earlier in the meeting, in the interests of holding a full discussion, she had not pressed for a vote on Mrs. Warzazi's earlier amendment, but she now believed it was time to vote on the draft resolution.

30. Speaking on behalf of the sponsors, she accepted Mrs. Warzazi's proposal to include the language of paragraph 1 of resolution 1995/43. She also accepted Mr. Mehedi's proposed replacement of "massacred" by "butchered", and his insertion of "international peace and security" in operative paragraph 1. And she accepted Mr. Joinet's amendment to operative paragraph 3.

31. Before a vote was taken on Mrs. Warzazi's amendment, she wished to point out that the draft resolution had been duly submitted in accordance with the working procedures of the Sub-Commission; everyone had had ample time to study it and realize that it was not a draft decision.

32. Mrs. WARZAZI read out the proposed amended version of operative paragraph 1 based on the corresponding paragraph of Commission on Human Rights resolution 1995/43:

> "Reiterates its unequivocal condemnation of all acts, methods and practices of terrorism, regardless of their motivation, in all its forms and manifestations, wherever and by whomever committed, as acts of aggression aimed at the destruction of human rights, fundamental freedoms and democracy, threatening the territorial integrity and security of States, destabilizing legitimately constituted Governments, undermining pluralistic civil society, and having adverse consequences on the economic and social development of States."

33. The CHAIRMAN said he took it that the new version of operative paragraph 1 was acceptable to all.

34. It was so agreed.

35. Mrs. WARZAZI requested a vote on deletion of the phrase "in accordance with Commission on Human Rights resolution 1995/43" from operative paragraph 3, since that resolution did not entrust the task of preparing a working paper to Mrs. Koufa.

36. Mrs. DAES pointed out that operative paragraph 6 of Commission resolution 1995/43 welcomed the Sub-Commission's decision "to entrust one of its members with the task of preparing a working paper". To save time, however, the sponsors were willing to agree to the deletion proposed by Mrs. Warzazi without a vote.

37. Mrs. WARZAZI said that, subject to the deletion of the phrase in question, she would agree to the version of operative paragraph 3 read out by Mr. Joinet.

38. Mr. EL-HAJJÉ said that he thought Mr. Joinet's reference to guideline No. 2 was superfluous since it should be assumed that the expert would be sufficiently conscientious to abide by the rules.

39. Mrs. DAES said that she was willing to accept the reference on behalf of the sponsors solely in order to expedite adoption of the resolution, although she felt that it cast unnecessary aspersions on the integrity of Mrs. Koufa.

40. Draft resolution E/CN.4/Sub.2/1996/L.40, as amended, was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1996/L.21 (continued)

41. Mr. JOINET read out a new version of the fourth preambular paragraph, which had been revised in the light of comments by Mrs. Gwanmesia:

> "Recognizing that groups such as women, children, indigenous peoples, minorities, refugees, migrants on the one hand, homosexuals on the other hand, as well as sex workers, injecting drug users and prisoners are more vulnerable to the risk of HIV infection."

The list of disparate categories in the last clause of operative paragraph 3 had been deleted. He proposed the following amended version: "in particular with respect to persons suffering from disadvantaged socio-economic or legal status".

42. Mrs. GWANMESIA said that the amended version of the fourth preambular paragraph erroneously stated that women and children in general were more vulnerable to the risk of HIV infection. That was simply not true. If women were vulnerable, surely it was men who were at fault. She proposed the following wording:

> "Recognizing that persons suffering from disadvantaged socio-economic or legal status are more vulnerable to the risk of HIV infection."

43. Mr. JOINET said he regretted that Mrs. Gwanmesia was unable to agree to the new version. As his efforts had failed, he saw no alternative to a vote on the original version, which was almost identical to the corresponding paragraph of resolution 1995/21, and on the version proposed by Mrs. Gwanmesia.

44. Mr. LINDGREN ALVES suggested the following text as a compromise:

"Recognizing that women, children, indigenous peoples, minorities and groups such as refugees and migrants, on the one hand, and homosexuals, on the other hand, as well as sex workers, injecting drug users and prisoners, are more vulnerable to the risk of HIV infection."

45. Ms. McDOUGALL said that the problem might be solved by restoring the original version of the end of the paragraph, which stated why the groups referred to, including women and children, suffered disproportionately from the economic and social consequences of the HIV/AIDS epidemic.

46. The CHAIRMAN suggested that Ms. McDougall should prepare a compromise text and submit it to the Sub-Commission later in the meeting.

47. It was so agreed.

Draft resolution E/CN.4/Sub.2/1996/L.43

48. The CHAIRMAN, noting that draft resolution E/CN.4/Sub.2/1996/L.43 had been superseded by the Sub-Commission's decision not to authorize further studies at the current session, suggested that it might be converted into a draft decision on an expanded working paper, without financial implications.

49. Mr. WEISSBRODT proposed the following draft decision:

"The Sub-Commission decided to request Mr. Osman El-Hajjé to prepare, without financial implications, an expanded working paper on ways and means of promoting democracy and how democracy can ensure economic, social, cultural and political rights, and to present that working paper to the Sub-Commission at its forty-ninth session."

50. Mr. ALFONSO MARTINEZ proposed that the phrase "and how to overcome the obstacles to democracy" should be inserted after the reference to economic, social, cultural and political rights.

51. The draft decision as proposed by Mr. Weissbrodt and amended by Mr. Alfonso Martínez was adopted without a vote.

The implementation of the human rights of women (agenda item 11) (continued)

Draft resolution E/CN.4/Sub.2/1996/L.48

52. Mr. BOSSUYT proposed the following amended version of the fifteenth preambular paragraph of the draft resolution to bring it into line with paragraph 1 of Commission resolution 1996/49:

"Welcoming the work of the Special Rapporteur of the Commission on Human Rights on violence against women, its causes and its consequences, Ms. Radhika Coomaraswamy, and taking note of her report (E/CN.4/Sub.2/1996/53 and Add.1 and 2)."

53. The amendment was adopted.

54. Mrs. WARZAZI said that in view of the fact that the Secretary-General had not yet established a focal point on women within the Centre for Human Rights, the sponsors had agreed on the following revised version of the first part of operative paragraph 10: "Calls upon the Secretary-General to take the necessary steps to establish the post of focal point on women in the Centre for Human Rights."

55. Mr. BOSSUYT proposed that the first part of operative paragraph 1 should be amended to read "Requests that studies submitted at its forty-ninth session include, where appropriate, gender-disaggregated statistics", since not all studies contained statistics.

56. The amendment was adopted.

57. Draft resolution E/CN.4/Sub.2/1996/L.48, as amended, was adopted.

The realization of economic, social and cultural rights (agenda item 8) (continued)

Draft resolution E/CN.4/Sub.2/1996/L.35

58. The CHAIRMAN announced that Mrs. Gwanmesia and Mr. Mehedi wished to join the sponsors of the draft resolution.

59. Draft resolution E/CN.4/Sub.2/1996/L.35 was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1996/L.44

60. Draft resolution E/CN.4/Sub.2/1996/L.44 was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1996/L.46

61. The CHAIRMAN announced that Mr. Weissbrodt wished to join the sponsors of the draft resolution.

62. Draft resolution E/CN.4/Sub.2/1996/L.46 was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1996/L.47

63. Mrs. PALLEY said that the financial implications of the working group proposed in operative paragraph 7 of the draft resolution should be thoroughly investigated. She understood that the Commission on Human Rights had recently been informed that there were no funds available for the establishment of working groups.

64. She was also concerned at the possibility of duplication between the proposed working group and the Working Group on the Right to Development, the Committee on Economic, Social and Cultural Rights, the Commission on Transnational Corporations and other bodies.

65. Mr. EL-HAJJÉ announced that he wished to withdraw from the list of sponsors.

66. Mr. ALFONSO MARTINEZ, commenting on Mrs. Palley's reference to duplication of work, said that the Economic and Social Council and the Second

Committee of the General Assembly could also be added to her list. Nevertheless, the idea of concentrating the work in question within the Sub-Commission was basically sound. As far as the financial implications were concerned, there was no harm in submitting a recommendation to the Commission on Human Rights, which could always reject it if it considered the financial implications to be unacceptable. He would, however, like to know what those implications were.

67. Mr. GUISSÉ agreed with the previous speaker's comments about duplication. The draft resolution before the Sub-Commission related to specific activities which needed further exploration. The Sub-Commission would merely be putting forward a proposal to explore the relationship between human rights in general and the activities of transnational corporations; the Commission could, if necessary, reject the proposal as unfeasible because of financial constraints.

68. Mr. BOSSUYT fully agreed with the objections raised by Mrs. Palley. He could not agree that the methods of work and activities of transnational corporations had only negative effects on economic, social and cultural rights and on the right to development, as seemed to be implied by the wording of operative paragraph 10.

69. Mrs. PALLEY requested the secretariat to give some information on the financial implications.

70. Mr. CISSE (Secretary of the Sub-Commission) replied that it was the practice to notify the Commission on Human Rights of the financial implications of all draft resolutions placed before it that had such implications.

71. Mr. WEISSBRODT said that it was clear from rule 28 of the rules of procedure that the Commission must be informed of all financial implications. He presumed that the rule also applied to the Sub-Commission.

72. The CHAIRMAN said he took it that no expenditure would be incurred until the draft resolution, if adopted, was submitted to the Commission.

73. Mr. ALFONSO MARTINEZ insisted that the Sub-Commission needed to know what the financial implications were before it could take a decision.

74. The CHAIRMAN announced that further discussion of the draft resolution would be temporarily suspended.

Draft resolutions E/CN.4/Sub.2/1996/L.49 and L.50

75. Draft resolutions E/CN.4/Sub.2/1996/L.49 and L.50 were adopted without a vote.

Draft resolution E/CN.4/Sub.2/1996/L.54

76. Mr. JOINET requested that his name should be added to the list of sponsors. He pointed out that the names of both a member and that member's alternate appeared as sponsors. The name of the alternate should be deleted.

77. Draft resolution E/CN.4/Sub.2/1996/L.54 was adopted without a vote.

The administration of justice and the human rights of detainees (agenda item 10) (continued)

Draft resolution E/CN.4/Sub.2/1996/L.19

78. Mrs. PALLEY and Mrs. GWANMESIA said that they wished to join the sponsors.

79. Mr. EL-HAJJÉ said that, as an original sponsor, he was sorry to note that his name did not appear at the head of the draft resolution.

80. Draft resolution E/CN.4/Sub.2/1996/L.19 was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1996/L.23

81. Mrs. GWANMESIA requested that her name should be added to the list of sponsors.

82. Draft resolution E/CN.4/Sub.2/1996/L.23 was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1996/L.45

83. Mr. ALI KHAN and Mr. MEHEDI said that they wished to join the sponsors.

84. Draft resolution E/CN.4/Sub.2/1996/L.45 was adopted without a vote.

Discrimination against indigenous peoples (agenda item 14) (continued)

Draft resolution E/CN.4/Sub.2/1996/L.31

85. Mrs. DAES drew attention to an amendment which the sponsors wished to make in operative paragraph 11, in the fourth line of which the words "indigenous peoples: land and environment" should be replaced by "indigenous peoples: environment, land and sustainable development". The same change should be made in the fifth line of paragraph 13.

86. Mrs. GWANMESIA asked how it was that Mrs. Daes was not a sponsor.

87. Mrs. DAES explained that her alternate Mrs. Koufa, was listed among the sponsors.

88. Draft resolution E/CN.4/Sub.2/1996/L.31, as amended, was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1996/L.32

89. Mr. WEISSBRODT, Mr. FIX ZAMUDIO, Mrs. PALLEY and Mr. ALI KHAN requested that their names should be added to the list of sponsors.

90. Mrs. DAES drew attention to two amendments which the sponsors wished to make. In the third preambular paragraph the words "the advisory group for" should be deleted, as should the whole of the fourth preambular paragraph.

91. The draft resolution E/CN.4/Sub.2/1996/L.32, as amended, was adopted without a vote.

Review of further developments in fields with which the Sub-Commission has been concerned (agenda item 4) (continued)

Draft resolution E/CN.4/Sub.2/1996/L.21 (continued)

92. The CHAIRMAN invited the Sub-Commission to resume its consideration of the draft resolution.

93. Ms. McDOUGALL announced that agreement had finally been reached on the following wording for the fourth preambular paragraph:

> "Recognizing that women, children, indigenous peoples, minorities, refugees and migrants on the one hand and on the other hand homosexuals, sex workers, injecting drug users and prisoners are more vulnerable to the risk of HIV infection because they have limited or no access to education, health care, social services, and recognizing that they suffer disproportionately from the economic and social consequences of the HIV/AIDS epidemic".

94. Operative paragraph 3 would remain as it stood down to the words "in particular with respect to". The text after that would be replaced by the words "persons suffering from disadvantaged socio-economic or legal status".

95. Mrs. WARZAZI suggested that the word "because" in the amended text of the fourth preambular paragraph should be replaced by the word "when".

96. Ms. McDOUGALL said that such a change would be acceptable.

97. Mr. BENGOA asked what precisely was meant by the phrases "on the one hand" and "on the other hand"? If two categories of persons were being established, the Sub-Commission would be practising unacceptable discrimination.

98. Ms. McDOUGALL pointed out that the need for such a distinction had emerged during the earlier debate on the draft resolution.

99. Mrs. GWANMESIA considered that the new wording, together with the replacement of the word "because" by the word "when", would remove any suggestion of discrimination. The point was that not all women were exposed to HIV infection because they were women and that not all children were exposed to it. That happened, in particular, when they did not have access to education, health care and social services.

100. The CHAIRMAN asked Mr. Bengoa whether he could now agree to the wording of the paragraph as amended.

101. Mr. BENGOA said that he could.

102. Mr. JOINET asked what had happened to his amendment to provide for three categories. He would have liked to have been consulted in the redrafting process. In any case, the proposed new wording was unacceptable to him.

103. Mr. LINDGREN ALVES said that Mr. Joinet was right. There had been a slight mistake in the reading of the amended version. It had been his understanding that the fourth preambular paragraph would read:

> "Recognizing that women, children, indigenous peoples, minorities and such groups as refugees and migrants on the one hand, homosexuals on the other hand, as well as sex workers, injecting drug users and prisoners, are more vulnerable to the risk of HIV infection when they have limited or no access to education, health care and social services, and that they suffer disproportionately from the economic and social consequences of the HIV/AIDS epidemic."

104. Mrs. GWANMESIA said that women, children, indigenous peoples, minorities, refugees and migrant workers constituted a separate category of persons who suffered through no fault of their own and should therefore not be confused with other categories. The wording proposed by Ms. McDougall, as amended by Mrs. Warzazi, made sense in that respect.

105. Mr. EL-HAJJÉ expressed the hope that the sponsors' thinking would not be distorted and insisted that the reference to persons suffering from disadvantaged socio-economic or legal status should be retained. In addition, he proposed that the words "such as" should be replaced by the word "among" in the second line of the paragraph.

106. Mr. LINDGREN ALVES formally proposed that the Sub-Commission should vote by roll-call on the original text as contained in document E/CN.4/Sub.2/1996/L.21.

107. Mr. ALI KHAN said that the amended text proposed by Ms. McDougall, with the word "because" replaced by the word "when", covered the categories referred to, including women, only when they were deprived and also preserved the reputation of the female population as a whole. He could not therefore agree with the text favoured by Mr. Lindgren Alves, which was in any case difficult to understand.

108. Mrs. WARZAZI called for separate votes on the fourth preambular paragraph as a whole and on the words "lack of full enjoyment of their fundamental rights and to", which in her view should be deleted.

109. Mr. EL HAJJÉ said that in the circumstances he wished to withdraw from the list of sponsors.

110. The CHAIRMAN invited members to vote by a show of hands on Mrs. Warzazi's proposal that the words "lack of full enjoyment of their fundamental rights and to" should be deleted from the fourth preambular paragraph.

111. The proposal was adopted by 11 votes to 4 with 6 abstentions.

112. Mrs. WARZAZI said that in the circumstances she would withdraw her request for a separate vote on the fourth preambular paragraph as a whole.

113. The CHAIRMAN invited members to vote on the original text of the draft resolution contained in document E/CN.4/Sub.2/1996/L.21, as amended by Mrs. Warzazi.

114. At the request of Mr. Lindgren Alves, a vote was taken by roll-call.

In favour:	Mr. Alfonso Martínez, Mr. Bengoa, Mr. Bossuyt, Mrs. Daes, Mr. Diaz Uribe, Mr. Fix Zamudio, Mr. Hatano, Mr. Joinet, Mr. Lindgren Alves, Mr. Maxim, Mrs. Palley, Mr. Weissbrodt, Mr. Yimer.
Against:	Mr. Guissé, Mrs. Gwanmesia.
Abstaining:	Mr. Ali Khan, Mr. Fan Guoxiang, Mr. Khalil, Mr. Mehedi, Mr. Sang Yong Park, Mrs. Warzazi.
Not participating:	Mr. El-Hajjé, Mrs. Mbonu.

Draft resolution E/CN.4/Sub.2/1996/L.21, as amended, was adopted by 13 votes to 2, with 6 abstentions.

Discrimination against indigenous peoples (agenda item 14) (continued)

Draft resolution E/CN.4/Sub.2/1996/L.33

116. Mrs. DAES said that the words "draft United Nations declaration on the rights of indigenous peoples" in operative paragraph 2 of the draft resolution should be in inverted commas. She hoped that the text could be adopted without a vote.

117. Draft resolution E/CN.4/Sub.2/1996/L.33, as amended, was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1996/L.34

118. Mr. ALFONSO MARTINEZ said that the "permanent forum for indigenous people" referred to in the second preambular paragraph of the draft resolution should be rendered as "foro permanente para las poblaciones indígenas" in the Spanish version.

119. The CHAIRMAN said that the secretariat would take note of that correction.

120. Draft resolution E/CN.4/Sub.2/1996/L.34 was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1996/L.39

121. Mrs. DAES said it had been proposed that the words "including the region of Big Mountain" should be deleted from operative paragraph 4 of the draft resolution. She hoped that the text could be adopted without a vote.

122. Draft resolution E/CN.4/Sub.2/1996/L.39, as amended, was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1996/L.51

123. Mrs. DAES proposed three oral amendments to the text of the draft resolution. The words "improving coordination and cooperation" in operative paragraphs 7 and 9 should be replaced by "inter alia, how they can contribute

to their work". In paragraph 8, the words "between the Working Group and these bodies" should be inserted after the word "coordination". She hoped that the draft resolution could be adopted without a vote.

124. Draft resolution E/CN.4/Sub.2/1996/L.51, as amended, was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1996/L.52

125. Mrs. PALLEY said that, while she had the utmost confidence in Mrs. Daes' capabilities, she seriously doubted the wisdom of embarking on a study which, if it was to have the requisite academic depth, would require 10 or more years' work and the preparation of doctoral theses in all countries of the world with indigenous populations. A better approach would be for Mrs. Daes to draft some general principles, drawing on input from the ongoing study by Mr. Alfonso Martínez.

126. Mr. WEISSBRODT said that Mrs. Daes had an outstanding record of completing very complex studies on time and that she could be relied on to do a wonderful job. He asked to join the list of sponsors of the draft resolution and hoped that it would be adopted by consensus.

127. Mrs. GWANMESIA said that the issue of indigenous land rights was a crucial one and that Mrs. Daes must be permitted to continue her study. The draft resolution should be adopted without a vote.

128. Mrs. DAES said that it had not been her intention to embark on the study, but she had been persuaded to do so by participants in the Working Group on Indigenous Populations. Its recommendation 177, on the desirability of embarking on the study, had been adopted unanimously by the Working Group.

129. She wished to propose three changes to the text of the draft resolution. In the first and second preambular paragraphs, the word "territories" should be deleted. In operative paragraph 1, the words "and the identification of problems in the implementation of such laws, policies and procedures, with a view to developing recommendations on potential solutions to such problems" should be deleted.

130. Mr. JOINET said that according to the guidelines concerning the methods of work of the Sub-Commission contained in its resolution 1992/8, no new study could be undertaken unless a document entitled "preparatory document" had been submitted. Furthermore, he was under the impression that, by draft decision E/CN.4/Sub.2/1996/L.37, the Sub-Commission had decided not to propose any new studies or reports at the current session.

131. Mr. WEISSBRODT said that he had seen the preparatory document drafted by Mrs. Daes, which was clear, precise and fully consistent with the guidelines.

132. Mr. LINDGREN ALVES said that a revision he had proposed to draft decision E/CN.4/Sub.2/1996/L.37 stated that a new study would be acceptable when it had been recommended by a working group.

133. Mr. ALFONSO MARTINEZ said that when resolution 1992/8 had been adopted, there had been a general understanding among members of the Sub-Commission that its provisions should be implemented flexibly. The study on indigenous land rights should not be postponed to the forty-ninth session.

134. Draft resolution E/CN.4/Sub.2/1996/L.52, as amended, was adopted without a vote.

Draft decision E/CN.4/Sub.2/1996/L.57

135. Mrs. DAES said that the draft decision was of a procedural nature; she hoped that it could be adopted without a vote.

136. Draft decision E/CN.4/Sub.2/1996/L.57 was adopted without a vote.

Review of the work of the Sub-Commission (agenda item 3) (continued)

Draft decision E/CN.4/Sub.2/1996/L.55

137. The CHAIRMAN said that the names of the two members of the Sub-Commission entrusted with the preparation of a joint working paper had been left open in the text of the draft decision. He wished to nominate Mr. Bengoa and Mr. Mehedi to perform that task. If he heard no objection, he would take it that members endorsed their nomination.

138. It was so agreed.

139. Draft decision E/CN.4/Sub.2/1996/L.55 was adopted without a vote.

The administration of justice and the human rights of detainees (agenda item 10) (continued)

Draft decision E/CN.4/Sub.2/1996/L.56

140. Draft decision E/CN.4/Sub.2/1996/L.56 was adopted without a vote.

The meeting rose at 6.25 p.m.